

Trespassing

SUMMARY

“Trespass” is a common term¹ used by many people in society and carries a presumption that dealing with someone who is trespassing is quick and absolute. However, Washington State trespassing laws are actually quite complex. Trespass can be a crime or a civil matter and depends heavily on the facts of the situation. It is critical to work with law enforcement before taking action against a trespasser.

BACKGROUND

In its most basic form, the offense of trespass involves a person entering or remaining on another person’s property without the owner’s permission. However, there are several variations and exceptions to what people may consider to be trespassing.

In order to deem someone a trespasser, the individual must be given notice that they are not allowed on the property and are being asked to leave. Sometimes a verbal notification is sufficient.

However, in many circumstances a written trespass notice is required that includes the reason the person is being “trespassed” (denied entry), the specific location they must not enter, the time period they will be prohibited from entry, and the potential consequences for violating the notice. The latter type of trespass notice is usually given in response to a criminal offense the person committed on the property, such as vandalism or theft.

Under Washington state law there are two basic *criminal* trespassing charges:

¹ Note that the word “trespass” not only describes the offense, but is used by law enforcement to describe a common response to the offense. A person who is deemed to be unwelcome on the premises for whatever lawful reason is given a notice that tells them they are being “trespassed” from the premises, which means they are being prohibited from any future attempt to enter the premises and can be arrested if they do so. Shoplifters are often “trespassed” from the store they stole from.

- 1st degree criminal trespass. The person knowingly enters or remains unlawfully in a building. This crime is a gross misdemeanor with a penalty of up to 364 days in jail and a fine up to \$5,000.
- 2nd degree criminal trespass. The person knowingly enters or remains unlawfully on someone else’s property. This crime is a misdemeanor with a penalty of up to 90 days in jail and a fine up to \$1,000.

CURRENT STATUS

The City of Sequim follows Washington State laws regarding civil and criminal trespass, summarized as follows:

A person looking to treat another person as a trespasser must have the authority to do so.

A property owner usually has the right to ask someone who comes onto their private property without permission to leave. Law enforcement can be called to assist.

Business owners, managers, or employees usually have the right to ask a person who has violated a rule of the establishment to leave. Law enforcement can be called to assist. However, a person is *not* committing trespass if they are in a place that is open to the public and complying with all conditions for entering and remaining on the premises.

Officers and officials who have obtained a legal order to do so may lawfully enter property against the owner’s wishes.

THE FACTS

- Trespass often requires that a person has committed bad conduct and then received formal notice that they are not allowed on the property.
- Even if someone has been formally “trespassed” there still may be exceptions that allow them onto the property. For example, even if the manager of an apartment complex has “trespassed” someone with a formal notice, a *resident* of the complex may still invite the trespassed individual to visit. The apartment manager does not have authority to interfere with the resident’s right to have visitors. However, the “trespassed” individual must not remain on the premises any longer than it takes to get to and from the resident’s unit.

- Publicly-owned property and businesses that are open to the general public often have special rules to follow before someone can be deemed a trespasser and removed or prohibited from entry.
- Trespass can be a crime or a civil matter. Police typically do not get involved in civil matters.

SOURCES

RCW 9A.52.070 Criminal Trespass in the First Degree

RCW 9A.52.080 Criminal Trespass in the Second Degree